



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Isiah Leggett
County Executive

Uma S. Ahluwalia
Director

December 16, 2010

Dear Montgomery County Food Service Facility Owner:

Montgomery County's Menu Labeling law—codified in Montgomery County Code § 15-15A -- took effect on July 1, 2010. It included an implementation schedule that required affected facilities to comply with its requirements by January 1, 2011.

During the time the legislation was under consideration, the federal government also adopted provisions regarding menu labeling as part of the Patient Protection and Affordable Care Act of 2010 ("PPACA"). The County Council and the County Executive made every effort to conform the county's menu labeling requirements to the requirements of the PPACA.

The PPACA requires the Food and Drug Administration ("FDA") to promulgate implementing regulations by March 23, 2011. In advance of that rulemaking the FDA issued a document entitled "Guidance for the Industry: Questions and Answers Regarding the Effect of Section 4205 of the Patient Protection and Affordable Care Act of 2010 on State and Local Menu and Vending Machine Laws." It specifically addresses the question of how a local menu labeling law is impacted by the PPACA.

That Guidance has prompted a number of questions to the Montgomery County Department of Health and Human Services regarding enforcement of county law. Given the FDA Guidance, DHHS will be enforcing those provisions of our law and Executive Regulation that are identical to the federal law and delay enforcement of those components of County law that are still to be addressed in the federal rulemaking process. **Beginning January 1, 2011, we will be enforcing the following components of the county menu labeling law and Executive Regulation:**

1. Disclosure of the number of calories for each standard menu item on menus and menu boards.
County Code § 15-15 (A) (d)(1),
2. Providing written nutrition information to consumers upon request.
County Code § 15-15 (A) (d)(2),
3. Providing a "prominent, clear, and conspicuous" statement on menus and menu boards about the availability of the written nutrition information.
County Code § 15-15 (A) (d)(3); § 15-15 (A) (e)(2), and
4. Providing calorie information (per serving or per food item) for self-service items and food on display, on a sign adjacent to each food item.
County Code § 15-15 (A) (d)(4).

Office of the Director

The following components will not be enforced until federal regulations are finalized:

1. Posting of caloric information for different flavors and varieties of certain menu items.
County Code § 15-15(A)(d)(5),
2. Posting of statement regarding suggested daily caloric intake as determined by federal
Department of Health and Human Services.
County Code § 15-15 A(e)(1), and
3. Posting of nutritional information for alcoholic beverages listed on a menu or menu
board.
COMCOR § 15-15 A.01.04 D.

The Department of Health and Human Services will continue to closely monitor the development of federal regulations and make further enforcement decision regarding the three components listed above after reviewing the final federal regulations issued by the FDA. Please call Licensure and Regulatory Services directly at 240-777-3986 with any questions regarding menu labeling requirements.

Sincerely,



Uma S. Ahluwalia
Director

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